

September 24, 2002

PUBLIC UTILITIES COMMISSION
Interim Electric Energy Conservation Programs

ORDER ESTABLISHING
INTERIM CONSERVATION
PROGRAM – SMALL BUSINESS
PROGRAM

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

By this Order, we approve implementation of a Small Business Program, as an interim conservation program pursuant to P.L. 2001, ch. 624, § 7. The Commission intends to establish an energy efficiency program for small businesses throughout Maine, based on a combination of energy efficiency information and education activities and direct incentives for small business owners, to encourage them to purchase and install energy efficient products and implement energy efficient business practices. Through this Order, we approve funding a Small Business Program, at a level of up to \$1.2 million.

II. BACKGROUND

P.L. 2001, ch. 624 (the Conservation Act),¹ enacted during the second session of the 120th Legislature, establishes terms that govern an electric energy conservation program in Maine. Section 4 of ch. 624 directs the Commission to develop and implement electric energy conservation programs that are consistent with the goals and objectives of an overall energy conservation program strategy that the Commission must establish. Various other statutory directives require the Commission to promulgate rules and hold public hearings.

Recognizing that the process of implementing electric energy conservation programs will necessarily take many months, the Legislature authorized the Commission to implement interim programs. Section 7 of ch. 624 states:

Interim programs. In order to avoid a significant delay in the implementation of conservation programs pursuant to the Maine Revised Statutes, Title 35-A, Section 3211-A, the Public Utilities Commission may use funds from the conservation program fund established pursuant to Title 35-A, section 3211-A, subsection 5 to implement on a short-term basis conservation programs that the commission finds to be cost effective. The commission is not required to

¹The Conservation Act may be found on the Commission's web page: www.state.me.us/mpuc (and access the Electric Conservation Activities site).

satisfy the requirements of Title 35-A, section 3211-A before implementing such programs. Any programs implemented under this section must terminate no later than December 31, 2003. Funds in the conservation program fund not used for short-term programs under this section must be used in accordance with Title 35-A, section 3211-A.

On June 13, 2002, we issued our Order Establishing Interim Conservation Programs, wherein we implemented specific interim programs that were described in the Order. We also ordered the Staff to further investigate other programs that showed potential for meeting our criteria for interim programs. One of the programs assigned to further study was a small business prescriptive rebate program.

In the June 13th Order, we noted that:

Commenters suggested that a direct-install rebate program would be effective for small business customers. The program could be run by a single (or small number of) ESCOs chosen through an RFP, or the Commission could pre-qualify vendors throughout the State to deliver the measures. Such a program would acknowledge that small business owners often do not have the time or the expertise to investigate or install efficiency measures. Other utilities offer such programs, and there are ESCOs, vendors, and other utilities that can offer a program in Maine with minimal start-up effort or cost. This program approach cannot reasonably be implemented within our 2-month time frame because it requires issuing and evaluating RFPs and/or RFQs for delivery and for monitoring. Furthermore, all these suggestions require further investigation before we can conclude that any one is a reasonable interim program. Finally, such programs would duplicate aspects of CMP's Energy Efficiency Incentive Program (the so-called Nickel Program), which offers prescriptive rebates to small and medium sized businesses.² Because two interim programs – the DECD loan program and CMP's Nickel Program – are available for small businesses, we will defer a direct-install program until we develop further details and we determine whether and how to phase out CMP's program. We direct Commission Staff to investigate this program approach further. We direct the Staff to consider a program delivery mechanism that uses in-state delivery companies to the greatest extent possible.

Order at 26.

² Some commenters also suggested increasing the customer incentive from 5 cents to 10 cents, to better overcome the hurdle associated with capital investment. (Footnote 16 in original).

The Staff has completed its investigation on a possible interim, direct-install rebate program directed at small business customers and reported that such a program should be implemented.

III. INTERIM SMALL BUSINESS PROGRAM

Small business customers are one of two “hard to reach” markets specifically targeted by the Conservation Act³. Small business owners face significant barriers to implementing energy efficiency. There is intense competition for their time and attention, and energy costs do not represent a large enough share of these firms’ budgets to command the business owners’ attention to energy efficiency. Small business owners often lack knowledge regarding the value of energy efficiency and the existence of energy efficiency technologies. They may also lack capital for investment or perceive a risk associated with new or unfamiliar technology. Efficiency opportunities at any one small business location may be small, so many energy service companies (ESCOs) do not focus their efforts on small business.

We have implemented one interim program directed at small business customers, the \$200,000 addition to the DECD Energy Conservation Loan Program. As we are far from the “at least 20%” target set for “permanent” programs, we decide that our interim program portfolio should include a larger scale program directed at small business customers. We also decide that a program that combines customer incentives with an education and information effort as described below is best suited to overcome the barriers faced by this group of customers. The incentive component will help overcome the barriers of first cost, lack of capital, and perceived risk. Incentives should also help get the attention of small business owners. The education and information activities will address the issues of lack of knowledge, perceived value, and perceived risk. The program is designed to involve a network of cooperating program allies, recruited from Maine contractors and suppliers. The program will help them to integrate energy efficiency into the services they already provide to Maine’s small business community.

The goal of the program is to improve the efficiency of energy use in small business applications. The specific program objectives are to:

- Reduce inefficient electricity consumption by small business customers.
- Increase the number of Maine suppliers and contractors selling energy efficient products and services to small business customers.
- Increase small business customer awareness of the benefits of energy efficiency and their use of energy efficient products.

Programs to promote the purchase and installation of energy efficient products by small businesses are currently operating in several states, including other New England states. As noted in our June 13th Order, CMP offers its Energy Efficiency Incentive Program (the so-called Nickel Program) to small and medium sized businesses in its service territory, and the Maine Department of Economic and

³Ch. 624, Section 2, codified as 35-A MSRA SS 3211-A (2) (B) (2).

Community Development (DECD), with support from the Conservation Program Fund, offers a loan program to small businesses for energy efficiency improvements.

The program we approve in this Order will be delivered by an implementation contractor, chosen by the Commission, through a network of cooperating program allies, recruited from Maine contractors and suppliers (lighting, HVAC, and electrical contractors, electrical and lighting supply stores, HVAC suppliers, etc.). The program will be supported by a marketing and education effort, delivered directly and/or through cooperating Maine business associations.

1. The Program is Cost Effective

A preliminary cost effectiveness analysis of this program, completed by the Staff, yields a benefit to cost ratio (BCR) of 1.6. This analysis was completed using Maine-specific budget and energy savings estimates. Since the set of measures to be offered, along with their estimated cost, energy savings, incentive level, and other characteristics will be determined during final program design, data from similar cost-effective programs being offered elsewhere was used as an estimate for the measure characteristics of the proposed Maine program.

2. Statutory Criteria Satisfied

a. At least 20% of available funds to programs should be targeted at small business consumers, as defined by the Commission by rule (35-A M.R.S.A. §3211-B Subsection 2.B(2)). This program is available only to small businesses.

b. The commission shall select service providers through a competitive bidding process (Subsection 3.A). The Commission directs the Staff to issue a competitive solicitation for an implementation contractor.

c. To the extent practical, the Commission shall encourage the development of resources, infrastructure, and skills within the State, by giving preference to in-state service providers. (Subsection 3 B). The design of the program calls for delivery of services through a network of allies, comprised of participating Maine contractors and suppliers (HVAC contractors, electrical contractors, electrical and lighting supply stores, HVAC suppliers, etc.).

3. Measurement and Evaluation

There are a variety of commonly-used means of evaluating an incentive-based program. Evaluators can count the number of people who take advantage of the program and the equipment they buy, and use the energy savings per measure from existing evaluations from other jurisdictions to estimate the program's energy savings. We direct Commission Staff to determine the best method of evaluation and to rely on measurements of installations in Maine to the greatest extent possible.

4. Coordination

We direct the Staff to coordinate detailed program design and delivery with the activities of DECD's Energy Conservation Loan Fund and CMP's Nickel Program, in order to maximize customer benefits and avoid duplication of resources. We will determine whether and how to phase out CMP's Nickel Program as part of our planning process in Docket 2002-162.

5. Funding

The estimated cost of this program through 2003 is \$1.2 million, based on the cost of similar programs operating in other states, adjusted for the size of the Maine small business market. We authorize the Staff to spend up to this amount from the Conservation Program Fund.

IV. FUTURE ACTIONS

The Staff is directed to implement the Small Business Program as described in this Order. We delegate to the Director, Energy Efficiency Programs, or his designee on the Energy Conservation Team, the authority to conduct a bidding process, to enter into contracts, memoranda of understanding, or similar agreements, as is necessary to implement the program consistent with this Order. Staff is also authorized to spend up to 10% more than the amount described in this Order to implement the program. Spending decisions beyond the 10% contingency must be made by the Commission.

Dated at Augusta, Maine, this 24th day of September, 2002.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

THIS ORDER HAS BEEN DESIGNATED FOR PUBLICATION

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.